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Remarks:

Executive Secretary

Date

2637 (12-81)



U.S. DEPARTMENT OF COMMERCE
Under Secretary for International Trade

April 23, 1982

To: William J. Casey

From: Lionel H. Olmer

Bill,

I think you'll find the highlighted parts to the attachment worthwhile reading. Given our recent lunch, the last page is especially pertinent.

Attachments

L309

EXECUTIVE REGISTRY

82-4910

Remarks by

Lionel H. Olmer

Under Secretary for International Trade

U.S. Department of Commerce

before the

President's Foreign Intelligence Advisory Board

Washington, D.C.

March 11, 1982

I want to discuss our system of export controls which exists to prevent transfer of high technology products and know-how to the Soviet Union, Eastern Europe, the People's Republic of China and certain other proscribed destinations. I will describe how we in the United States Government determine what is "high technology" and what, therefore, needs to be controlled by us and our allies. I will comment briefly on the organization we have for attempting to do this and on some very serious weaknesses in the system. I will indicate what we have tried to do in the past year to repair these weaknesses, and finally, will suggest the possibility of further inquiry by the Board.

The present system is largely unchanged since its inception 30 years ago when it began as a voluntary, joint effort between the NATO countries and Japan, but not including Iceland. The system is out of date -- and badly out of date. It does not reflect the fundamental change in the nature of technology or the increasing rate of change in technology development and information processing. Nor does it, from the U.S. point of view, accommodate certain political realities, as, for example, the fact that the Europeans in particular, and to a slightly lesser degree the Japanese, act as if there is no higher calling than commerce. They tend to view the business contract as sacrosanct, and accept restraints on trade begrudgingly at best. At worst, they tolerate diversion of very sophisticated products and technical data to proscribed countries.

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From the European and Japanese point of view, we Americans are simply unrealistic. We do not distinguish between "truly high technology," as they put it, and older generation technology which is readily available to the Soviets and others from any number of sources. And there is some truth to this. We give our allies a Manhattan telephone directory-sized list of products to control rather than something in size equal to an abridged version of dining out in Albany, New York. We take an inordinate amount of time to process applications; we treat the applications inconsistently; we speak as a Government with at least 3 voices, and we do not recognize adequately -- if at all -- that trade, regardless of with whom, means jobs, jobs and more jobs. I can't emphasize this latter perception enough, since there are now 12 million unemployed workers in Europe and the economic situation will likely get worse before it gets better. Governments have fallen just this past year because of unemployment, and it is not only professional Cassandras who see the possibility of major upheavals in the political and social fabric of European society.

If I seem to make the situation seem hopeless, I don't mean to. But we are in difficult circumstances and our national interests are not being fulfilled. The Soviets, East Europeans and Chinese are getting technology they shouldn't, and substantial business is being lost by American manufacturers for reasons in my judgment which are not supportable.

For example, the United States is virtually alone in the control of small aircraft engines. Such engines are available in large quantities in a number of countries. Also, we maintain extensive controls on normal industrial type test equipment, if it contains a micro-computer. This includes a wide range of industrial testing and controlling equipment, such as automatic suspension/load simulators, for example, which are used for testing absorption capacity of shock absorbers used in automobiles. As in the case of small aircraft engines, normal, "non-strategic," industrial testing equipment is available in large quantities in a number of countries.

When COCOM began, its underlying justification was to prevent the transfer of equipment and technology of a "dual use" character. By dual use we mean that which has civilian, but also direct and significant military application. Tennis shoes might be worn by soldiers as well as the general population but their transfer to the Soviet Union would not be prevented because of the absence of direct military applicability while seismic computers with high data processing rates might be prevented because they could be used for missile tracking. If this example is simple, in its totality the process of "differentiation" could well have kept busy all the monks throughout Europe during the Middle Ages.

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The Soviet Union follows a very sophisticated and highly centralized intelligence network which is designed to procure Western technology and equipment vital for their military buildup. A couple of examples will serve to illustrate their approach. The Soviets have stolen (or acquired through illegal diversions) blueprints for the production of microcircuits which are used in military systems. Coupled with their illegally obtained manufacturing equipment, it is quite easy to produce "masks" for the manufacture of microcircuits. Some of these microcircuits are used in Soviet military aircraft such as the Foxbat and Flogger. Also, Soviet sonar buoys used to track U.S. submarines have been discovered to use electronic chips identical to those made by the RCA Corporation. One of the early clandestine acquisitions by the Soviets was instruction manuals on sonar systems which they were able to obtain from a subsidiary of a U.S. firm in Europe.

The Soviets obtained clandestinely through a European supplier, a number of Western type gyroscopes, along with detailed specification sheets on a number of different types of gyroscopes. Such equipment has multiple military uses, especially in missiles, aircraft and spacecraft.

In aircraft, the Soviets are applying Western design and industrial technology to the IL-76 Aircraft to be used in an Airborne Warning Aircraft Command System (AWACS) program, as well as Western numerically controlled machine tools in the production of the SU-25 ground support fighters.

The use of Western technology saves the Soviets billions in R&D costs. By skimming the results of our efforts -- the results of billions in taxpayers sacrifices -- they're hurting us by getting the same goods and technology on credit or even free.

The effect on the U.S. is to require ever rising defense budget expenditures to keep ahead of Soviet advances achieved because of what they buy and steal.

Additionally, the famous and well documented case regarding Mr. Zimmer of the Institute of Physics in Hungary portrays a clear example of Soviet exploitation of U.S. technology. Mr. Zimmer studied at California Institute of Technology four years in the field of "bubble memories" (a solid state technology permitting the recording of volumes of information in a small area). He worked closely with U.S. scientists and passed on to the Soviets all that he learned, thus enabling them to save considerable time and resources by not pursuing areas which would not be fruitful. The technology obtained has a direct utility in satellite data storage because the devices are small, rugged, non-volatile and radiation hardened.

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In addition to technology diversion, another problem concerns people and money to do the monitoring job. Resources for monitoring technology transfer are slim in all countries save the U.S. and given the enormous increase in workload, are barely adequate here. In the area of our enforcement activities, where we try and follow up leads regarding suspected diversions, we are not at present adequately supported and I anticipate proposing some major program changes in the near future.

We handle 80,000 license applications a year, generated by corporations within the U.S. and referred to us by our COCOM partners. The processing of these applications is both bureaucratic and technical. The former, in the sense that several agencies of government must be checked with, the bona fides of the shipper and of the end user must be inquired into, the forms must be properly filled out, and so forth. Technical, in the sense that very often the equipment and/or the technology don't fit neatly into one of our thousands of definitions as to what is or is not acceptable, and therefore an ad hoc examination must be made. Now, Commerce's technical staff and Defense's policy and technical staffs may and frequently will disagree. And thus will begin the process known as "interagency consensus reaching." For example, over a year ago, on the heels of a Presidential directive authorizing expansion of technology trade with the PRC, Secretary Haig promised the Chinese the IBM 4341 computer to help in their census taking. Twelve months later the license was still pending due to the Pentagon's claim that this computer could be used for clear military or intelligence gathering purposes and that absent a modification to the terms of transfer, it wouldn't be approved. And in these kinds of cases, the Pentagon is authorized by statute to exercise a veto on the proposed transfer.

Many hundreds of interagency hours later, we achieved a compromise and fulfilled Secretary Haig's promise. Apart from the government bureaucracy's teeth-gnashing, and the protracted uncertainty which the corporation was forced to endure, think what kind of signal this sent to the PRC government!

I spoke at the outset about the fact that the COCOM process has not been essentially affected by the changing nature of technology. Here are some examples:

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- / When COCOM began U.S. had unchallenged preeminence in most areas of technology.
- Foreign companies were dependent on the U.S. for support and, often, so were their governments.
- Computers were not dominant features of corporate life.
- Leading edge technology was possessed by the military; civilian applications of technology lagged far behind.
- The process of transferring technology, because we possessed an uncommonly high proportion of it and the Russians were so relatively backward, was far more visible and certainly easier to detect.

The situation today is enormously different in both form and content:

- Acquisitions, joint ventures, manufacturing associations, cross licensing, data communication transfers across international boundaries, are an every day way of life.
- The private sector has risen to prominence in technology leadership within the short span of 10 years.
- Not even COCOM -- 15 nations -- can lay claim to unique possession of very much: Sweden, Finland, Austria, Switzerland, Liechtenstein (yes Liechtenstein!) all have technology that the Soviets, East Europeans and the PRC want. And, I'm afraid, get all too frequently.

A year ago we came into office with the export licensing area in a state of near total disarray. There were more than 2,200 cases backlogged (held up by the Government beyond the statutory time limit); Commerce and other elements of the U.S. Government had an awful reputation in the business community; our efforts at enforcing export controls (catching and punishing violators) were puny.

Our first priority at Commerce was to win the confidence of the business community. We've accomplished a great deal by clearing out the backlog, by dealing with applicants honestly and forthrightly and by asserting for the Commerce Department an authoritative role in export administration as is appropriate under the statute. Some of the progress we've made can be measured by the following:

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- the backlog is gone;
- the Secretary of Commerce convened a meeting of the leading Cabinet officers to discuss borderline cases and left it clear this would be a forum used in the future;
- we have taken the lead in promoting the first high-level meeting of COCOM members in a generation;
- the HLM was held in January in Paris and was successful in gaining a renewed commitment from member states towards controlling technology;
- we are involving the private sector in an international review of the controlled items and this will begin in the Fall; the review will clear out the lower end of technology and concentrate on that which is important;
- within COCOM the fundamental precept on which control shall be based is being changed; that is, by establishing "defense priority industries" and then identifying the products and technology that fit within each of them; COCOM has agreed to the concept and it is up to us to convince the members of the particulars;
- we are emphasizing the control of processes rather than of products.

But, the confidence of the business community and of our allies won't truly be won if we continue to maintain the Manhattan telephone directory full of outdated technologies; and if we don't catch more wrongdoers, we'll fail to demonstrate that there is a high cost to violating the law.

We have taken some steps to place greater focus on technology transfer problems, especially on enforcement and improved government coordination. Intelligence concerning technology diversion has been upgraded with the establishment of a Technology Assessment Center in the CIA. We are emphasizing preventive enforcement. That is, working with the Customs Service, we wish to prevent illegal exports rather than discover such transfers after the damage has taken place in the critical technology or equipment provided the Soviet Union. Once an illegal export has reached its ultimate destination, our national security could be compromised and the damage could be irreversible.

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Customs is taking major steps to increase surveillance of exports from the U.S. and is prepared to dedicate about 200 additional inspectors to this task. This reflects a concerted effort to slow illegal transfers from the U.S.

Within Commerce, we are taking action to assure greater weight is given to our enforcement responsibilities under the Export Administration Act of 1979. We are upgrading the level of attention to this area and are establishing a new organizational unit to give this effort real meaning and more clout in dealings with other agencies. In addition, field offices are being established on the West Coast, right in the heart of Silicon Valley, where much of the Soviet Union's high-technology acquisition efforts are concentrated.

Very little of what I've said is new. And I must emphasize that concern for weaknesses in the system is widely held within the Government and in some parts of the private sector.

Senator Jake Garn two years ago introduced a bill that would create an agency separate from State, Defense and Commerce to deal with all matters relating to export administration. The Carter Administration opposed the bill and the Senator hasn't reintroduced it since President Reagan came to office. Given the Administration's desire to reduce the size of Government and eliminate unnecessary organizations, we asked that Garn hold off and give us a chance to make the system work.

I've talked with Garn recently and told him that it's not yet working but that we've made improvements. He'd like to introduce his bill soon and hold public hearings on it. I told him I'd willingly testify and help put the spotlight on problem areas, but that I still felt his basic notion would not receive a favorable endorsement.

I've left one area unmentioned thus far, that of making "foreign availability" determinations as required by the Export Administration Act (EAA) of 1979. Although the mere existence of goods and technology in places available to the Soviets would not of itself be dispositive as to whether a license should be issued or not, it could be of balance-tipping significance. And we don't do well enough at making these foreign availability evaluations. Although the responsibility is assigned to the Commerce Department under the EAA of 1979, it needs the support of the intelligence community. Bill Casey has created the Technical Advisory Center in partial response to this need and I would urge the Board to go further, moving beyond asking the intelligence community for examples of what the Soviets have obtained by hook or crook, but also requiring "net assessments" of the state of technological and manufacturing competence.

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For Commerce's part, I will shortly be making recommendations to improve our ability to make foreign availability determinations. If a credible job can be done at this function and we demonstrate publicly that those determinations play an important part in the licensing process, we will move a giant step towards convincing the American business community and our COCOM partners of the serious commitment we have towards an effective export control policy.

A final word about another important area for us to work on and one which the Board could well help with. That is, convincing corporate America that serious attention must be paid to export control matters and that the function cannot simply be left to shipping clerks. I can recall not many years ago when corporations were confronted with vigorous antitrust investigations by the Justice Department. Many corporations reacted to that government policy by appointing in-house legal counsel to make sure the company skirts were kept clean. Similarly, since passage of the Foreign Corrupt Practices Act in 1977 and the antiboycott provisions in 1977, many companies have instituted internal auditing procedures to make sure all is proper. We could use that kind of senior level commitment in the field of technology transfer. An awareness of the damage being done to our national interests by Soviet efforts to obtain technology would be a condition precedent to achieving this commitment. The FBI, CIA, the Defense Department and Commerce need to reach out and convince the public of the hazards to our national interests. I earnestly solicit the Board's involvement as well.



Bob Wiedrich

Chicago Tribune Monday, April 12, 1982

A message for Japanese

LIONEL H. OLMER should be drawing combat pay.

For he probably has one of the more hazardous assignments in the Reagan administration—telling Japanese businessmen and government officials face to face the truth about their deteriorating trade relations with other nations because of protectionist policies back home.

As the Department of Commerce's undersecretary for international trade, Olmer travels on his crusade to spread the word to wherever Japanese industrialists and officials gather.

He has appeared before various organizations in the United States friendly to our Far Eastern trading partner like the Japan Society of New York.

HE HAS delivered a similar message before trade associations, governmental groups and high-technology conventions. He has journeyed from Zurich to Southeast Asia.

And he has poked his head literally into the lion's jaws by preaching the same doctrine of free and open trade to audiences of Japanese in Japan.

Now, that takes guts. And that is why I'm nominating Olmer for hazardous duty pay for courageously courting verbal abuse from highly partisan audiences. And he does so while standing virtually alone.

In a way, Olmer's mission smacks of David and Goliath in his role as representative of a now relatively puny economic power baiting a formerly puny nation transformed into a highly industrialized society.

I like what he is saying. I like the way he is saying it. I like where he has chosen to say it. And I admire his fortitude in

standing up for free American access to Japanese markets at a time when a lot of politicians have jumped aboard the lobbyist bandwagon to represent Japanese trade interests on Capitol Hill.

That, too, takes guts. For by warning the Japanese about increasing trade tensions that could lead to protectionist retaliation in this country, Olmer might be threatening the livelihoods of those influence peddlers now lushing it up on Japanese payrolls.

"I'm not anti-Japanese," Olmer declares. "I once lived in Japan for two years and traveled extensively there. In this job, I get to Japan at least two or three times a year."

IN HIS TALKS, Olmer lays it on the line. He tells his audiences that trade relations between the U.S. and Japan are endangered now as never before in the post World War II era.

"If these problems are not resolved, or if they are improperly handled by either country, they could profoundly affect our overall political and economic relationship," he says.

Then he talks about the \$18-billion U.S. trade deficit with Japan, the severe damage caused to such U.S. industries as automobiles by Japanese competition and the increasing concern of American workers facing escalating unemployment.

"Japan is now the free world's second largest economy," Olmer tells his audiences. "It is the largest producer of steel and motor vehicles and is a major producer of electronics. It dominates key segments of the world's semiconductor market and is poised to move into the forefront of aerospace, genetic engineering and other high technology industries."

"Japanese planners now predict that

the Japanese per capita gross national product will surpass that of the U.S. by the year 2000.

"Despite these impressive accomplishments, Japan's own self image—its view of its role in the world community of nations—has failed to develop in tandem.

"Japanese society still clings to an outdated and dysfunctional self-perception of a nation without resources, a nation which must conserve scarce foreign exchange and which must export to survive."

Japan's failure to abandon its export-oriented trade ethic, he says, ignores the basic reality that exporters must also be importers.

IN ADVISING Japanese businessmen, financiers and government officials to open up their doors to American products, Olmer reminds them that the U.S. treats Japan far more gently than the European community.

"Italy has a virtual ban on Japanese automobiles," he told me. "The French only allow Japanese cars 3 per cent of their market. Anything over that they are not permitted to unload. We don't treat them that way. So they ought to listen to us. They can't gobble up markets here without allowing us free access to their markets."

Olmer speaks the truth. But his Japanese audiences do not always like hearing it. Some are defensive; others incredulous.

However, the fact remains that by its restrictive policy toward foreign imports, Japan is threatening the delicate balance of the world trading system from which it has so spectacularly benefited.

Thus, if that restrictive policy sparks global protectionism, Japan will be the one nation hurt the most.